

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRENCE KENDALL GLADNEY,

Defendant.

No. CR05-0029-LRR

ORDER

This matter is before the court on the defendant's Motion to Dismiss Due to Pre-Indictment Delay (Docket No. 79). The defendant filed such motion on August 23, 2005. On September 13, 2005, the government filed a Resistance (Docket No. 81). On September 15, 2005, the defendant filed a Reply (Docket No. 82). On November 2, 2005, the defendant filed a Supplement to His Motion to Dismiss Due to Pre-Indictment Delay (Docket No. 85). The court deems it appropriate to deny the defendant's Motion to Dismiss Due to Pre-Indictment Delay for the reasons stated in the government's Resistance. The government's brief adequately sets forth the law in the Eighth Circuit as applied to the facts in the defendant's case. Specifically, the government properly concludes that the defendant: (1) waived any objection for pre-indictment delay because he failed to raise his objection to a defect in the indictment prior to trial, *see United States v. Farmer*, 312 F.3d 933, 936 (8th Cir. 2002) (citing Rule 12(b)(2) of the Federal Rules of Criminal Procedure)¹, and (2) failed to show dismissal is warranted because of the pre-

¹ In 2002, Congress modified Rule 12(b) to more clearly delineate those motions that must be filed pretrial and those that may be filed pretrial. Rule 12(b)(2) now governs what motions may be filed before trial and Rule 12(b)(3) now governs what motions must (continued...)

indictment delay, *see United States v. Grap*, 368 F.3d 824, 829 (8th Cir. 2004) (articulating applicable standard). Accordingly, the defendant's Motion to Dismiss Due to Pre-Indictment Delay (Docket No. 79) is denied.

IT IS SO ORDERED.

DATED this 30th day of November, 2005.



LINDA R. READE
JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

¹(...continued)
be filed before trial.